

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:
LYNWOOD JACKSON,
JENNIFER JACKSON,

Debtor(s)

Case No: B-1080955 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on May 28, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On May 28, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$2,690.00 for a period of 60 months. The Debtors propose to pay unsecured creditors \$15,060.00 by devoting monthly disposable income to the plan. The Debtors list \$45,681.00 of unsecured debt in Schedule "F".
5. The Debtors have filed with the petition a Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income, known as Official Form B22C ("Form B22C"). The Debtors list current monthly income ("CMI") in Form B22C of approximately \$9,082.55.
6. Because the Debtors' CMI does exceed the median income figure for a family of the same size in North Carolina, the Debtors' reasonable and necessary expenses are calculated on Form B22C pursuant to 11 U.S.C. §1325(b)(3).
7. The Trustee objects to confirmation of the Debtors' plan in that the Debtors are not devoting all of their projected disposable income to fund the plan pursuant to

11 U.S.C. §1325(b). The Debtors have taken a deduction in Form B22C, line #55 in the amount of \$803.95 per month for amounts withheld as contributions for retirement plans. The Debtors do not list this withholding in Schedule I. Without evidence of the deduction, the deduction is improper and the Debtors' monthly disposable income to be applied to unsecured creditors should be at least \$1023.07 per month, or up to \$61,384.00 when calculated over a 60 month period.

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1325(b), and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. Alternatively, that the Debtors' plan be modified to provide for payment to unsecured creditors in an amount up to \$61,384.00; or
3. For such other and further relief as the Court may deem just or proper.

This the 9th day of August, 2010.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

State Bar No: 23266

P.O. Box 3613

Durham, N.C. 27702

Telephone: (919) 688-8065

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Lynwood and Jennifer Jackson, 12 Sunny Oak Place, Durham, NC 27712, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 9th day of August, 2010.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee